

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BEVERLY JANE CARY,

Plaintiff,

v.

PATCH SERVICES LLC d/b/a NOAH;
PATCH HOMES, INC.; FIRST
AMERICAN TITLE INSURANCE
COMPANY LENDERS ADVANTAGE,

Defendants.

CASE NO. 2:22-cv-00538-LK

ORDER GRANTING LEAVE TO
FILE THIRD AMENDED
COMPLAINT

This matter comes before the Court on the motion of Plaintiff Beverly Jane Cary for leave to file a third amended complaint. Dkt. No. 13. For the following reasons, the Court grants the motion.

By the time she filed her motion for leave to amend, Cary had already amended her complaint at least once, *see* Adversary Case No. 22-01000-TWD, Dkt. Nos. 2, 4 (Bankr. W.D. Wash.), so she may only amend the complaint with the opposing parties' consent or with leave of court. Fed. R. Civ. P. 15(a)(2). Although FATIC has filed a notice of non-opposition which

1 effectively consents to the amendment, neither Patch Services, LLC nor Patch Homes, Inc. have
2 indicated their consent.

3 Under Rule 15, the court should “freely give leave [to amend] when justice so requires.”
4 Fed. R. Civ. P. 15(a)(2). “This policy is ‘to be applied with extreme liberality.’” *Eminence Capital,*
5 *LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003) (quoting *Owens v. Kaiser Found. Health*
6 *Plan, Inc.*, 244 F.3d 708, 712 (9th Cir. 2001)). The factors courts use to determine when justice
7 requires amendment are “undue delay, bad faith or dilatory motive on the part of the movant,
8 repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the
9 opposing party by virtue of allowance of the amendment,” and the “futility of amendment.” *Foman*
10 *v. Davis*, 371 U.S. 178, 182 (1962). Of these factors, the consideration of prejudice to the opposing
11 party carries the greatest weight. *Eminence Capital*, 316 F.3d at 1052.

12 Because FATIC has filed a notice of non-opposition and the other defendants have not
13 opposed the motion, and because this case is still in its early stages, amendment poses no prejudice
14 to the opposing parties. Furthermore, there is no evidence of bad faith or dilatory motive.

15 The Court thus GRANTS the motion for leave to file a third amended complaint. Cary is
16 DIRECTED to file the proposed third amended complaint within 14 days of this Order.

17 Dated this 20th day of July, 2022.

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19 Lauren King
20 United States District Judge
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